

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6908

BILL NUMBER: HB 1101

NOTE PREPARED: Dec 27, 2006

BILL AMENDED:

SUBJECT: Flood Control.

FIRST AUTHOR: Rep. Micon

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Natural Resources Commission (NRC) to direct the Department of Natural Resources (DNR) to prepare a statewide flood risk and flood damage assessment. It places a limit on the maximum amount of fill material that may be placed in a floodway, subject to certain exceptions. The bill makes violation of the limit a Class B infraction.

The bill also specifies the standards of review for an application for a permit for certain obstructing activities in a floodway. It allows summary denial of a permit application in certain circumstances. It also prohibits a person from placing certain materials in a floodway as fill or for bank stabilization. The bill also places restrictions on the use of flood conveyance channels.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Statewide Assessment.* The NRC must direct the DNR to prepare a statewide flood risk and flood damage assessment that quantifies annual flood damage in Indiana, including flood insurance claims and payments; liability of state and local government for flood damage; and other costs. The assessment must also identify properties that are most at risk from flood damage and assess statewide trends in flood flows and flood storage capacity and the factors affecting those trends; and assess environmental conditions along Indiana floodways. The DNR should be able to complete the above tasks given its existing level of personnel and resources. It is possible that the DNR may need to reassign personnel or adjust priorities in order to accomplish the task.

Review of Permit Applications. The bill specifies standards that the DNR must use to review an application for a permit for certain obstructing activities in a floodway. The bill allows summary denial of a permit

application in certain circumstances. An applicant may not file a third application for a permit for a project if the director has denied two applications by the applicant for the project because the permit was incomplete or the permit application contained modeling demonstrating an unacceptable surcharge. The DNR must adopt rules to implement these provisions. It is likely that the above provisions will reduce DNR administrative expenses. The overall impact, however, is indeterminable and will depend on future permit applications.

Explanation of State Revenues: *Violations and Penalties.* A person may not place in a floodway as fill or for the purposes of bank stabilization contaminants, solid waste, garbage, or other used or waste materials, including coal combustion wastes or byproducts, concrete, asphalt, foundry sand, automobiles, automobile bodies or parts, tires, steel slag, metal parts, or white goods. A person who knowingly violates this provision commits a Class B infraction. Violators could also be subject to a civil penalty. Civil penalties are deposited in the state General Fund. Penalties for a Class B infraction are listed below. The amount of penalties that will be collected is indeterminable.

The bill also places a limit on the maximum amount of fill material that may be placed in a floodway, subject to certain exceptions. A person who knowingly violates these provisions commits a Class B infraction. Each day of continuing violation after conviction of the offense constitutes a separate offense. Infractions judgments are deposited in the state General Fund. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class B infraction is \$1,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: DNR.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.